

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Lopath et al.

Application No.: 10/635,170

Confirmation No.: 9166

Filed: August 6, 2003

Art Unit: 3739

For: BALLOON ALIGNMENT AND
COLLAPSING SYSTEM

Examiner: P. J. Vrettakos

RECEIVED

MAY 08 2006

OFFICE OF PETITIONS

PETITION TO CORRECT INVENTORSHIP PURSUANT
TO 37 C.F.R. § 1.48(A); TO ACCEPT DECLARATIONS
EXECUTED BY LESS THAN ALL JOINT INVENTORS
PURSUANT TO 37 C.F.R. § 1.47(A); AND TO WAIVE
REQUIREMENTS OF 37 C.F.R. § 1.48(A)(2) AS TO
ONE JOINT INVENTOR PURSUANT TO 37 C.F.R. § 1.183

MS Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

It is respectfully requested that the inventorship in the above-referenced patent application be corrected from the present inventive entity of Patrick David Lopath and Edward Paul Harhen to the six-person inventive entity of:

Patrick David Lopath
Edward Paul Harhen
Yegor Sinelnikov
James D. Savage
Jaime Merino
John Hotmer

pursuant to 37 C.F.R. § 1.48(a)(1).

Pursuant to 37 C.F.R. § 1.48(a)(3), a declaration according to 37 C.F.R. § 1.63 is submitted herewith in the form

of two copies of the same declaration. One such copy is executed by named inventor Patrick David Lopath. The other copy is executed by named inventors Yegor Sinelnikov, James D. Savage and Jaime Merino. Inventors John Hotmer and Edward Paul Harhen are either unavailable or have refused to execute the declaration. Thus, the two copies of the declaration submitted herewith constitute a declaration signed by all of the available joint inventors with the signature blocks of the non-signing inventors left blank, and accordingly should be treated as having been signed by all of the available joint inventors on behalf of the non-signing inventors. See M.P.E.P. § 409.03(A), subparagraph (A). The facts demonstrating the unavailability or refusal of inventors Harhen and Hotmer, and the diligent efforts made to secure execution of the declaration by those inventors, are set forth in the declaration of Marcus J. Millet, submitted herewith.

The last known address of inventor Edward Paul Harhen is 67 Meeting House Road, Duxbury, Massachusetts 02332, United States of America.

The last known address of inventor John Hotmer is 111 College Road, Apt. 14F, Selden, New York 11784, United States of America.

Accordingly, it is respectfully requested that the declarations executed by less than all of the joint inventors be accepted pursuant to 37 C.F.R. § 1.47(A)

Pursuant to 37 C.F.R. § 1.48(a)(2), Statements are submitted by added inventors Yegor Sinelnikov, James D. Savage, and Jaime Merino. Each such Statement states that the error in inventorship occurred without deceptive intention on his or her part. No statement is submitted by previously omitted inventor John Hotmer. As set forth above, inventor Hotmer is either unavailable or refuses to execute papers in connection with the present application. Pursuant to 37 C.F.R. § 1.183, applicant

respectfully petitions for waiver of the requirement for a statement that the error in inventorship occurred without deception intention on the part of inventor John Hotmer. It is respectfully submitted that inasmuch as inventor Hotmer is unavailable or uncooperative, it is impossible for applicant to secure such a statement. It is further respectfully submitted that the facts set forth in paragraph 2 of the Declaration of Marcus J. Millet establish that the error in inventorship occurred without deceptive intention on the part of inventor Hotmer.

The fee of \$400 pursuant to 37 C.F.R. § 1.17(f) in respect of a petition under 37 C.F.R. § 1.183 should be charged to Deposit Account 12-1095.

Pursuant to 37 C.F.R. § 1.48(a)(4), the processing fee of \$130 set forth in 37 C.F.R. § 1.17(i) should be charged to Deposit Account 12-1095.

Pursuant to 37 C.F.R. § 1.48(a)(5), a Consent of the Assignee, ProRhythm, Inc., to the above-requested correction of inventorship, along with a Statement under 37 C.F.R. § 3.73(b) establishing the right of the assignee to take action, is submitted herewith.

Should any additional fee be due in connection with the above petition, or any aspect thereof, the same should be charged to Deposit Account 12-1095.

Dated: May 5, 2006

Respectfully submitted,

By 

Marcus J. Millet

Registration No.: 28,241

LERNER, DAVID, LITTENBERG,

KRUMHOLZ & MENTLIK, LLP

600 South Avenue West

Westfield, New Jersey 07090

(908) 654-5000

Attorney for Applicant

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Lopath et al.

Application No.: 10/635,170

Confirmation No.: 9166

Filed: August 6, 2003

Art Unit: 3739

For: BALLOON ALIGNMENT AND
COLLAPSING SYSTEM

Examiner: P. J. Vrettakos

STATEMENT BY YEGOR SINELNIKOV

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

The present statement is being presented with a Request To Add Inventor Erroneously Not Named In Nonprovisional Application, to correct the inventorship in the above-referenced application from:

Patrick David Lopath and Edward Paul Harhen

to:

Patrick David Lopath, Edward Paul Harhen, Yegor Sinelnikov, James D. Savage, Jaime Merino, and John Hotmer.

As an inventor being added, I state that the error in inventorship occurred without deceptive intention on my part.

3/29/06
DATE


YEGOR SINELNIKOV

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Lopath et al.

Application No.: 10/635,170

Confirmation No.: 9166

Filed: August 6, 2003

Art Unit: 3739

For: BALLOON ALIGNMENT AND
COLLAPSING SYSTEM

Examiner: P. J. Vrettakos

STATEMENT BY JAMES D. SAVAGE

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

The present statement is being presented with a Request To Add Inventor Erroneously Not Named In Nonprovisional Application, to correct the inventorship in the above-referenced application from:

Patrick David Lopath and Edward Paul Harhen

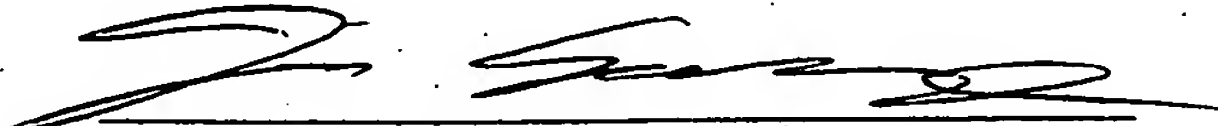
to:

Patrick David Lopath, Edward Paul Harhen, Yegor Sinelnikov, James D. Savage, Jaime Merino, and John Hotmer.

As an inventor being added, I state that the error in inventorship occurred without deceptive intention on my part.

7/30/06

DATE

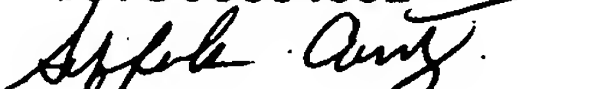



JAMES D. SAVAGE

637190_1.DOC

Notary Public
State of New York
Patricia M. Guadagnino
My appointment expires 10/01/2009

#01GU6064832



March 30, 2006


IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Lopath et al.

Application No.: 10/635,170

Confirmation No.: 9166

Filed: August 6, 2003

Art Unit: 3739

For: BALLOON ALIGNMENT AND
COLLAPSING SYSTEM

Examiner: P. J. Vrettakos

STATEMENT BY JAIME MERINO

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

The present statement is being presented with a Request To Add Inventor Erroneously Not Named In Nonprovisional Application, to correct the inventorship in the above-referenced application from:

Patrick David Lopath and Edward Paul Harhen

to:

Patrick David Lopath, Edward Paul Harhen, Yegor Sinelnikov, James D. Savage, Jaime Merino, and John Hotmer.

As an inventor being added, I state that the error in inventorship occurred without deceptive intention on my part.

3/28/06
DATE


JAIME MERINO

Docket No.: TRANS 3.0-053 CIP
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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MAY 08 2006

OFFICE OF PETITIONS

In re Patent Application of:
Lopath et al.

Application No.: 10/635,170

Confirmation No.: 9166

Filed: August 6, 2003

Art Unit: 3739

For: BALLOON ALIGNMENT AND
COLLAPSING SYSTEM

Examiner: P. J. Vrettakos

DECLARATION OF MARCUS J. MILLET IN
SUPPORT OF PETITION TO CORRECT INVENTORSHIP

MS PETITION
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

I, MARCUS J. MILLET, declare and say as follows:

1. I am a registered patent attorney and a partner in the firm of Lerner, David, Littenberg, Krumholz & Mentlik, LLP ("LDLKM").

2. The above-referenced application is a continuation-in-part of U.S. Patent Application No. 10/244,271 (LDLKM file TRANS 3.0-0053) (the "Parent Application"). The above-referenced application adds to the content of the Parent Application subject matter of an invention disclosure which was originally communicated to LDLKM and referred to by LDLKM as LDLKM file TRANS 1.0-056. In connection with this Declaration, I have reviewed LDLKM's records with respect to that disclosure. Those records indicate that the inventors regarded as the originators of the added subject matter were inventors Yegor Sinelnikov, James D. Savage, Jaime Merino, and John Hotmer. In

reviewing the disclosure of LDLKM file TRANS 1.0-056 for preparation of a patent application, I determined that the added subject matter of the new disclosure should be presented in a continuation-in-part of the Parent Application which also incorporated inventive contributions from the named inventors in the Parent Application, Messrs. Patrick David Lopath and Edward Paul Harhen. I instructed my office staff to open a new file for the continuation-in-part application, LDLKM file TRANS 3.0-053 CIP, and consolidate the new disclosure into the new file. Due to a clerical error, the internal record as to the inventors associated with the new file only set forth the inventors associated with the Parent Application (LDLKM file TRANS 3.0-053) and did not carry over the inventors associated with the new disclosure (LDLKM file TRANS 1.0-056). The declaration naming the inventors originally filed in the above-referenced application was prepared from our internal office records which had been affected by this clerical error. Accordingly, the omission of inventors Sinelnikov, Savage, Merino, and Hotmer arose solely out of a clerical error by LDLKM.

3. The error in inventorship was discovered by me on or about March 6, 2006, after I had approved payment of the issue fee. On or about March 6, 2006, I forwarded the Declaration and other papers to the assignee, ProRhythm, Inc., for execution by the inventors. Between March 6, 2006, and March 17, 2006, the assignee requested that I contact inventors Lopath and Harhen for execution of the necessary papers, inasmuch as these inventors were no longer employed by the assignee.

4. On March 17, 2006, I forwarded a copy of the above-referenced application and the new Declaration naming all of the inventors via certified mail to inventor Harhen. A copy

of the transmittal letter and certified mail receipt is annexed hereto as Exhibit A. On April 6, 2006, I forwarded a follow-up letter to Mr. Harhen. A copy of that letter is annexed hereto as Exhibit B.

5. Despite the foregoing efforts, the certified letter and accompanying documents (Exhibit A) were returned by the post office as "unclaimed," as demonstrated by the copy of the returned envelope annexed hereto as Exhibit C. I have not received any other communication from inventor Harhen in connection with the requested declaration.

6. On or about April 28, 2006, I was advised by the assignee that they had been unable to contact inventor Hotmer. I accordingly forwarded a copy of the above-referenced application, the new declaration naming all of the inventors, and a statement as to lack of deceptive intent to inventor Hotmer at the last address known to the assignee, via regular mail and via Federal Express. A copy of the transmittal letter forwarding the application and Declaration to inventor Hotmer is annexed hereto as Exhibit D. A copy of a computer printout from the Federal Express delivery service indicating that the package was delivered to such address on April 29, 2006, is annexed hereto as Exhibit E.

7. Despite such efforts, I have not received any communication from inventor Hotmer in connection with the requested declaration and statement.

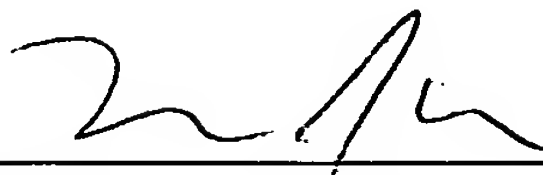
I declare under penalty of perjury that the foregoing is true and correct. I further state that I have been warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under § 1001 of Title 18 of the United States Code and such willful false statements may jeopardize the validity of the application or any patent resulting therefrom. I state that all statements made of

Application No.: 10/635,170

Docket No.: TRANS 3.0-053 CIP

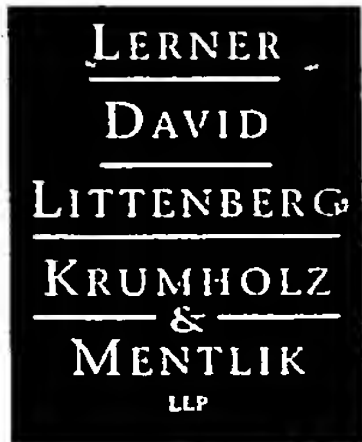
my own knowledge are true and all statements made on information and belief are believed to be true.

Dated: May 5, 2006



MARCUS J. MILLET

654795_1.DOC



908.654.5000 • FAX 908.654.7866 • WWW.LDLKM.COM

PATENTS, TRADEMARKS, COPYRIGHTS & UNFAIR COMPETITION

Marcus J. Millet
908.518.6450
mmillet@ldlkm.com

March 17, 2006

Via Certified Mail, RRR & Regular Mail

Mr. Edward Paul Harhen
67 Meeting House Road
Duxbury, MA 02332

Re: TRANS 3.0-053 CIP (TRANS.185)
U.S. Patent Application No. 10/635,170
BALLOON ALIGNMENT AND COLLAPSING SYSTEM

Dear Mr. Harhen:

We ask for your assistance in correcting a clerical error on our part which affects the patent application referred to above ("the '170 Application").

As you may recall, the '170 Application is a "continuation-in-part" of a prior patent application (now Patent 6,808,524, copy herewith) directed to a balloon alignment and collapsing system. You and Mr. Lopath were named as the inventors in the prior application. The '170 Application is directed to improvements and embellishments of that system. A copy of the '170 Application as published by the Patent Office (Publication No. 2004/0058257) is also transmitted herewith. The '170 Application should properly name you, Mr. Lopath and four other present or former employees of ProRhythm who contributed to the improvements claimed in the '170 Application. Because of an error on our part when we prepared the existing Declaration for the '170 Application, the Declaration omitted the other four individuals. A copy of the existing Declaration for the '170 Application is also transmitted herewith. To correct the error, we ask that you sign and date the new Declaration enclosed herewith, and return the same to us by mail using the enclosed postage prepaid envelope.

We greatly appreciate your cooperation in this matter. As the '170 Application is about to issue as a patent, we would appreciate your signing and returning the enclosed new Declaration at your earliest possible convenience. If you have any questions concerning this matter, please do not hesitate to telephone me at (908) 518-6450.

Yours truly,

LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK, LLP

MARCUS J. MILLET

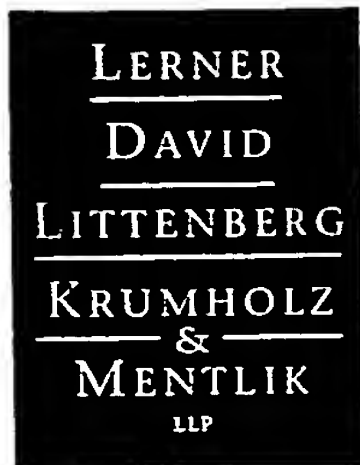
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Street, Apt. No. or PO Box No. 67 MEETING HOUSE RD
City, State, ZIP+4 DUXBURY MA 02332

7001 2510 0002 1502 6653



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908.654.5000 • FAX 908.654.7866 • WWW.LDLKM.COM

PATENTS, TRADEMARKS, COPYRIGHTS & UNFAIR COMPETITION

Marcus J. Millet
908.518.6450
mmillet@ldlkm.com

April 6, 2006

Mr. Edward Paul Harhen
67 Meeting House Road
Duxbury, MA 02332

Re: TRANS 3.0-053 CIP (TRANS.185)
U.S. Patent Application No. 10/635,170
BALLOON ALIGNMENT AND COLLAPSING SYSTEM

Dear Mr. Harhen:

We would appreciate receiving your response to our letter of March 17, 2006
(copy herewith) at your very earliest opportunity.

Yours truly,

LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK, LLP

MARCUS J. MILLET

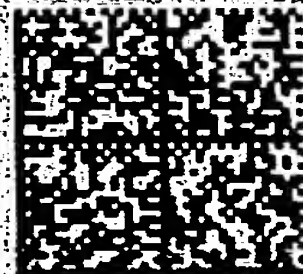
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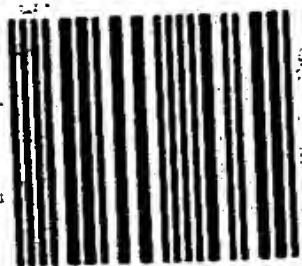
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Mr. Edward Paul
67 Meeting House
Duxbury, MA

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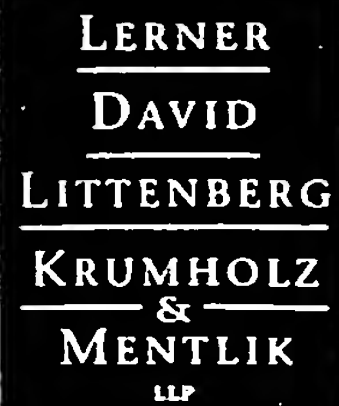
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PATENTS, TRADEMARKS, COPYRIGHTS & UNFAIR COMPETITION

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PATENTS, TRADEMARKS, COPYRIGHTS & UNFAIR COMPETITION

Marcus J. Millet
908.518.6450
mmillet@ldlkm.com

April 28, 2006

Via Federal Express & Regular Mail

Mr. John Hotmer
111 College Road, Apt. 14F
Selden, NY 11784

**Re: TRANS 3.0-053 CIP (TRANS.185)
U.S. Patent Application No. 10/635,170
BALLOON ALIGNMENT AND COLLAPSING SYSTEM**

Dear Mr. Hotmer

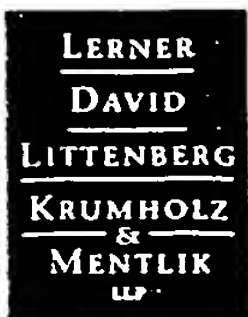
We ask for your assistance in correcting a clerical error on our part which affects the patent application referred to above ("the '170 Application").

The '170 Application is a "continuation-in-part" of a prior patent application (now Patent 6,808,524, copy herewith) directed to a balloon alignment and collapsing system. Patrick David Lopath and Edward Paul Harhen were named as the inventors in the prior application. The '170 Application is directed to improvements and embellishments of that system. A copy of the '170 Application as published by the Patent Office (Publication No. 2004/0068257) is also transmitted herewith. The '170 Application should properly name Messrs. Lopath and Harhen, you, and three other present or former employees of ProRhythm who contributed to the improvements claimed in the '170 Application. Because of an error on our part when we prepared the existing Declaration for the '170 Application, the Declaration omitted you and the other three individuals. A copy of the existing Declaration for the '170 Application is also transmitted herewith.

To correct the error, we enclose the following documents:

1. A new Declaration - please sign and date same;
2. An Assignment - please execute same in the presence of a notary public, preferably on the same you execute the Declaration; and
3. A Statement (to be submitted to the Patent and Trademark Office with the Request To Add Inventor) - please sign and date same.

Kindly return the executed documents to us by mail using the enclosed postage prepaid envelope.



John Hotmer
April 28, 2006
Page 2

We greatly appreciate your cooperation in this matter. As the '170 Application is about to issue as a patent, we would appreciate your signing and returning the enclosed new Declaration at your earliest possible convenience. If you have any questions concerning this matter, please do not hesitate to telephone me at (908) 518-6450.

Yours truly,

LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK, LLP

MARCUS J. MILLET

MJM/bla
Enclosures

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		Weight:	1 LBS
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		Weight	0.5 lbs.

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	8:20 AM At local FedEx facility	RONKONKOMA, NY	
Apr 28, 2006 10:48 PM	Arrived at FedEx location	NEWARK, NJ	
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STATEMENT UNDER 37 CFR 3.73(b)Applicant/Patent Owner: ProRhythm, Inc.

Application No./Patent

No./Control No.:

10/635,170

Filed/Issue Date:

August 6, 2003Entitled: BALLOON ALIGNMENT AND COLLAPSING SYSTEMProRhythm, Inc.

(Name of Assignee)

, a

Corporation

(Type of Assignee, e.g., corporation, partnership, university, government agency, etc.)

states that it is:

1. ☒ the assignee of the entire right, title, and interest; or
2. ☐ an assignee of less than the entire right, title and interest.
(The extent (by percentage) of its ownership interest is _____ %)

in the patent application/patent identified above by virtue of either:

- A. ☒ An assignment from the inventor(s) of the patent application/patent identified above. The assignment was recorded against the parent application number 10/244,271 in the United States Patent and Trademark Office at Reel 014684, Frame 0282, or a true copy of the original assignment is attached.

OR

- B. ☐ A chain of title from the inventor(s), of the patent application/patent identified above, to the current assignee as follows:

1. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at Reel _____, Frame _____, or for which a copy thereof is attached.
2. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at Reel _____, Frame _____, or for which a copy thereof is attached.
3. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at Reel _____, Frame _____, or for which a copy thereof is attached.

☐ Additional documents in the chain of title are listed on a supplemental sheet.

As required by 37 CFR 3.73(b)(1)(i), the documentary evidence of the chain of title from the original owner to the assignee was, or concurrently is being, submitted for recordation pursuant to 37 CFR 3.11.

[NOTE: A separate copy (i.e., a true copy of the original assignment document(s)) must be submitted to Assignment Division in accordance with 37 CFR Part 3, to record the assignment in the records of the USPTO. See MPEP 302.08]

The undersigned (whose title is supplied below) is authorized to act on behalf of the assignee.



Signature

May 5, 2006

Date

Marcus J. Millet

Printed or Typed Name

(908) 518-6450

Telephone Number

Authorized Signer for Assignee

Title

Docket No.: TRANS 3.0-053 CIP
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Lopath et al.

Application No.: 10/635,170

Confirmation No.: 9166

Filed: August 6, 2003

Art Unit: 3739

For: BALLOON ALIGNMENT AND
COLLAPSING SYSTEM

Examiner: P. J. Vrettakos

CONSENT OF ASSIGNEE TO CORRECTION OF INVENTORSHIP

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Pursuant to 37 C.F.R. §§ 1.48(a)(5) and 3.73(b), I, Reinhard Warnking, being an officer of ProRhythm, Inc., the assignee of the captioned patent application by way of assignments (Reel/Frame 014684/0282 and Reel/Frame 014852/0814), hereby consent to a Request To Add Inventor Erroneously Not Named In Nonprovisional Application in connection with the above-captioned patent application to name Patrick David Lopath, Edward Paul Harhen, Yegor Sinelnikov, James D. Savage, Jaime Merino, and John Hotmer as inventors.

PRORHATHYM, INC.

March 13, 2006
DATE

BY: [Signature]
REINHARD WARNKING, President